

00796

DECISION



*Suzanne L. ...
Civ. Rec.*

**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548**

FILE: B-184305

DATE: December 22, 1976

**MATTER OF: Mary K. Heffernan - Claim for unpaid compensation
of deceased employee**

- DIGEST:**
- (1) Disallowance of claim of mother of decedent, for unpaid compensation due decedent at death, is sustained since daughter of decedent has prior right under 5 U.S.C. § 5582(b).
 - (2) Where best evidence is not obtainable, GAO may exercise discretion in establishing quantum of evidence necessary to support claim.

This decision is in response to a letter dated May 26, 1975, from Mrs. Mary K. Heffernan, to our Claims Division, appealing the Certificate of Settlement Z-2567984 dated May 9, 1975, which disallowed her claim as the mother of William K. Heffernan, deceased, for unpaid compensation due him at the date of his death.

The disposition of money due an employee at the time of his death is governed by 5 U.S.C. § 5582 (1970), which provides, in part that:

"(b) In order to facilitate the settlement of the accounts of deceased employees, money due an employee at the time of his death shall be paid to the person or persons surviving at the date of death, in the following order of precedence, and the payment bars recovery by another person of amounts so paid:

"First, to the beneficiary or beneficiaries designated by the employee in a writing received in the employing agency before his death.

"Second, if there is no designated beneficiary, to the widow or widower of the employee.

"Third, if none of the above, to the child or children of the employee and descendants of deceased children by representation.

B-184305

"Fourth, if none of the above, to the parents of the employee or the survivor of them."

Since the decedent did not designate a beneficiary and was not survived by a widow, the compensation due the decedent at his death was paid to Mary Ann L. Mormando upon her representation that she is the daughter of the decedent. The claim of Mrs. Mary K. Heffernan, mother of the decedent, was disallowed since the right of a surviving child are superior to those of a parent. 5 U.S.C. § 5582(b) (1970).

Mrs. Heffernan has appealed the disallowance of her claim on the grounds that Mrs. Mormando "was his (the decedent's) step-daughter by marriage but never adopted by him." However, Mrs. Heffernan is unable to submit any specific evidence to support her statement.

We contacted Mrs. Mormando and requested that she send us her birth certificate or other documentation corroborating her status as daughter of the decedent. She replied that she is the decedent's daughter, that she was described by the decedent on his life insurance policy as his daughter, but that she has no other documentation to corroborate her status as the decedent's daughter.

We have contacted the Office of Federal Employee's Group Life Insurance and have been informed by that office that Mrs. Mormando was described as the decedent's daughter on his beneficiary designation, dated September 25, 1961.

Under our statutory authority to settle and adjust claims brought against the Government, 31 U.S.C. § 71 (1970), we may exercise our discretion as to what evidence shall be the basis for the allowance of a particular claim. 22 Comp. Gen. 269 (1942). As a general rule, we have required that all claims be supported by the best evidence obtainable. However, we have recognized that under certain circumstances the presentation of the best evidence is impossible or impracticable and we have exercised our discretion in such cases in establishing the quantum of evidence necessary to support a claim. See 55 Comp. Gen. 402 (1975), and cases cited therein.

We recognize that a valid birth certificate identifying Mrs. Mormando as the daughter of the decedent would be the best

B-184305

evidence to support her claim. However, due to the lack of evidence supporting Mrs. Heffernan's allegation that Mrs. Mormando is not the decedent's daughter, and the evidence, supplied by the decedent's life insurance beneficiary designation, supporting Mrs. Mormando's claim, we must rely on the representation of Mrs. Mormando.

Accordingly, we sustain the action of our Claims Division in disallowing Mrs. Heffernan's claim.

Deputy

R. F. K. 11/16
Comptroller General
of the United States